

REMARKS

This Amendment is made to the Office Action dated June 3, 2003. Claims 1-10 are pending in this application. By this Amendment, new claims 11 and 12 are being presented. Reconsideration of the pending claims is respectfully requested.

The Examiner has rejected claims 1-3 and 5-10 under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 6,228,110 to Munsinger (the "Munsinger patent") in view of U.S. Patent No. 5,545,209 to Roberts et al. (the "Roberts patent") and further in view of U. S. Patent No. 5,961,536 to Mickley (the "Mickley patent"). Claim 1 recites a structure which includes a catheter having an elongated shaft, an expandable member in fluid communication with an inflation lumen extending along the catheter shaft, and a stent mounted on the expandable member. Claim 1 further includes a sheath adapted to cover a portion of the stent during delivery which is moveable over a portion of the expandable member so that the portion of the expandable member not covered by the sheath expands to the desired inflated diameter upon inflation to create a working length at least as long as the length of the mounted stent. Method claim 7 includes the recitation that the sheath is placed along the expandable member to create a working length which is at least as long as the mounted stent.

Applicant strongly disagrees with the Examiner's rejection of these claims based upon the combination of the Munsinger, Roberts and Mickley patents. The retractable sheath 166 shown in the Munsinger patent is used for a single purpose, namely, to cover the stent 162 on the catheter shaft until the stent is positioned within the target area of the

patient. Thereafter, the sheath 166 in the Munsinger patent can be removed completely from the stent to allow the stent to be deployed at the target location. The Examiner is directed to column 3, lines 61-66 of the Munsinger patent which reads as follows:

“Shown covering stent 162 is an optional retractable sheath 166 slidably mounted on distal catheter shaft 194. Retractable sheath 166 is retractable from a fully extended position (as shown) in which the treatment device stent 162 is covered by the retractable sheath and a fully retracted position (not shown) in which the treatment device, stent 162, is exposed.”

Therefore, there are only two positions in which this retractable sheath 166 is used in the Munsinger patent, either to completely cover or completely expose the stent. Therefore, one skilled in the art would recognize the use of this optional retractable sheath in the Munsinger patent as a means for stent security.

Turning now to the Roberts and Mickley patents, it is noted that the stent in the Roberts patent is mounted over a retractable sheath which is, in turn, mounted over an expandable balloon. In practice, the sheath must be retracted without moving the stent in order to expose portions of the balloon to allow the balloon to be progressively and incrementally inflated. There is no teaching or suggestion to mount the retractable sheath over the stent in the Roberts patent or to mount the stent directly over the balloon. Stent security is achieved in the Roberts patent by a fixed sleeve 22 which holds the ends of the stent in place. (see Col 6, lines 47-48 of the Roberts patent). In the Mickley patent, stent security is achieved by crimping the stent to the balloon (see Column 7, lines 65- Col. 8, line 1).

Accordingly, Applicant strongly disagrees with the Examiner that one skilled in the art would have achieved the invention of the present claims by simply combining the devices found in the Munsinger patent with the Roberts patent and Mickley patent. Rather, one skilled in the art, looking at the Munsinger, Roberts and Mickley patents would simply replace the stent security component of the Roberts patent, i.e., the fixed sleeve 22, with the stent security component of the Munsinger patent, namely, the retractable sheath 166. Similarly, the stent crimping used in the Mickley patent would be replaced with the retractable sheath 166 used in the Munsinger patent. Accordingly, the structure that would result from these particular combinations is not the structure recited in the claims at issue. Any suggestion to the contrary goes beyond the teachings of these patents and would suggest that the Examiner has used impermissible hindsight in an attempt to recreate the claimed invention. Accordingly, the invention of the pending claims is simply not created by the combination of devices disclosed in the Munsinger, Roberts and Mickley patents and the structure of the pending claims would not have been obvious in view of these patents.

In view of the foregoing, it is respectfully urged that all of the present claims of the application are patentable and in a condition for allowance. The undersigned attorney can be reached at 310-824-5555 to facilitate prosecution of this application, if necessary.

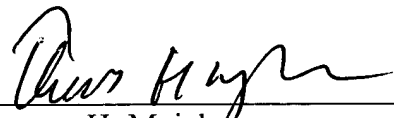
REQUEST FOR ONE-MONTH EXTENSION OF TIME

Applicant respectfully requests a one-month extension of time to respond to the Office Action dated June 3, 2003, in the above-identified application.

The requisite fee of \$110.00 pursuant to 37 C.F.R. §1.136(a), along with the \$84.00 fee for an additional independent claim, is enclosed herewith. Please charge any additional fee or credit any overpayment to our Deposit Account No. 06-2425. A duplicate copy of this paper is enclosed.

Respectfully submitted,

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By: 
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THM:mjm

Enclosure:

Transmittal Postcard
Request for One-Month Extension of Time
Check for \$110.00

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